

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

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THIS DOCUMENT RELATES TO ALL  
CLASS ACTIONS

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) MDL No. 1456

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) CIVIL ACTION: 01-CV-12257-PBS

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) Judge Patti B. Saris  
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)  
)

**PLAINTIFFS' MOTION FOR LEAVE TO FILE COMBINED REPLY MEMORANDUM  
IN SUPPORT OF MOTION TO MODIFY THE TRACK TWO DISCOVERY  
SCHEDULE AND OPPOSITION TO DEFENDANTS' CROSS MOTION**

Plaintiffs move for leave to file a combined reply brief in support of their Motion to Modify the Track Two Discovery Schedule and an opposition memorandum to Defendants' cross motion. The reasons supporting this motion include the following:

1. The Track Two Defendants' Opposition to Plaintiffs' Motion to Modify the Track Two Discovery Schedule includes a Cross Motion to which Plaintiffs have a right to oppose with a separate filing.
2. Defendants' opposing brief misrepresents the record of Track Two discovery and otherwise introduces material calling for a response by Plaintiffs.
3. Plaintiffs submit that it is more efficient to combine their opposition to Defendants' cross motion with a reply on Plaintiffs' opening motion given that the arguments are very closely related.
4. Plaintiffs' initial motion comprised six pages, and Defendants' opposition and cross motion comprises nine pages. Plaintiffs' proposed combined reply and opposition to the cross motion spans only four pages.

5. Defendants have advised Plaintiffs' counsel that they take no position on this motion for leave.

WHEREFORE, Plaintiffs respectfully request that the Court grant leave for them to file a combined reply brief in support of their Motion to Modify the Track Two Discovery Schedule and memorandum in opposition to Defendants' cross motion.

DATED: October 11, 2005

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### **CERTIFICATE OF SERVICE**

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing, **PLAINTIFFS' MOTION FOR LEAVE TO FILE COMBINED REPLY MEMORANDUM IN SUPPORT OF MOTION TO MODIFY THE TRACK TWO DISCOVERY SCHEDULE AND OPPOSITION TO DEFENDANTS' CROSS MOTION** to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on October 11, 2005, a copy to LexisNexis File & Serve for Posting and notification to all parties

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